

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 100692-001

v

Ameritas Life Insurance Corporation
Respondent

Issued and entered
this 22nd day of December 2008
by Ken Ross
Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On October 9, 2008, XXXXX, authorized representative of XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* The Commissioner reviewed the information and accepted the request on October 16, 2008.

The case presented a medical question so the Commissioner assigned it to an independent review organization which provided its analysis and recommendation to the Commissioner on October 30, 2008.

II

FACTUAL BACKGROUND

The Petitioner has dental care benefits under a group plan underwritten by Ameritas Life Insurance Corporation (Ameritas). Her dental benefits are defined in the certificate of group dental insurance (the certificate).

In August 2007, the Petitioner, through her dentist, initially requested prior authorization for porcelain ceramic substrate crowns (procedure code D2740) on teeth numbers #22 and #27. Ameritas denied the request in a letter to the dentist dated October 19, 2007. The record does not show that an appeal of that denial was taken at that time.

On September 27, 2008, the Petitioner had the crowns placed without prior authorization. When a claim for the service was submitted to Ameritas, it denied coverage on the same basis as it had in 2007, i.e., that the Petitioner did not meet the criteria for crowns on those two teeth. Nothing in the record shows that the Petitioner received a final adverse determination following the denial in 2008 that explained her right to either an internal grievance or an external review under PRIRA. Therefore, the Commissioner concludes that the Petitioner has therefore exhausted the internal grievance process. For the purpose of this external review, the Commissioner treats Ameritas's October 19, 2007, letter as its final adverse determination.

III ISSUE

Is Ameritas correct in denying coverage for the Petitioner's crowns?

IV ANALYSIS

Petitioner's Argument

The Petitioner says that since 2000 she has repeatedly had teeth 22 and 27 restored due to decay. Her dentist recommended and requested coverage for crowns as medically necessary. The Petitioner's dentist explained the need for the restorative crowns in a letter dated September 29, 2008:

We requested predetermination for porcelain crowns of teeth #22 and #27. These teeth have very large and old restorations with recurrent decay, and they do not have sufficient tooth structure to support any additional composite restorations.

The Petitioner believes that Ameritas should cover the crowns as medically necessary for treatment of her condition.

Ameritas's Argument

The certificate says that crowns like those of the Petitioner received are considered a "type 3" procedure and as such, "Coverage is limited to necessary placement resulting from caries (tooth decay) or traumatic injury." That language was the basis for Ameritas's October 19, 2007, denial letter:

Coverage is provided only when necessary due to decay or traumatic injury. Traumatic injury under this plan is defined as injury caused by external forces (outside the mouth) and specifically excludes chewing or biting injuries or injury caused by internal forces such as bruxism (grinding of teeth).

Ameritas had two dental consultants review the Petitioner's x-rays and they both concluded that the Petitioner did not meet the criteria for decay or traumatic injury to cover crowns. Ameritas therefore declined to provide coverage.

Commissioner's Review

The issue in this case is whether Ameritas properly denied coverage for crowns on teeth #22 and #27. The Commissioner notes that no argument has been made that the crowns were needed because of traumatic injury. Therefore the question is whether they were necessary due to decay.

Ameritas contends that the documentation did not support the placement of crowns; the Petitioner believes the crowns were necessary.

To help the Commissioner resolve the medical issue in this case, the matter was assigned to an independent review organization (IRO) for the recommendation of an expert. The IRO physician reviewer is a board certified doctor of dental medicine. The reviewer is also a member of the American Dental Society, the Academy of General Dentistry, and the New England Dental Society, and is familiar with the medical management of patients with the Petitioner's condition.

The IRO reviewer recommended upholding Ameritas' denial of coverage. The IRO report said:

The dental records show that #22 was treated with a three surface composite restoration (DLB) on January 24, 2005, and that #27 was treated on March 9, 2005, with a similar restoration. There is no mention at either of those visits in 2005 that the cavity preparations were deep or the teeth were compromised or that the prognosis was poor due to extensive caries. In essence, two (2) years and five (5) months after treating two (2) teeth with composite restorations, the dentist recommended crowns for both teeth. Apparently the [Petitioner] was led to believe the restorations were old, but according to the current standard of care, this amount of time is not considered 'old.' The general consensus in the dental community is that restorations should last seven (7) or more years.

* * * It is Ameritas' contention that the x-rays presented do not show extensive caries and, based on the documentation submitted for review, this reviewer concurs with this opinion; therefore, dental necessity for the crowns on teeth #'s 22 and 27 was not established.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b) The IRO's analysis is based on extensive expertise and professional judgment. The Commissioner can find no reason why that judgment should be rejected.

The Commissioner finds that Ameritas therefore properly denied coverage under the under the terms of the certificate.

V ORDER

The Commissioner upholds Ameritas' adverse determination of October 19, 2007. Ameritas appropriately denied coverage for the Petitioner's crowns as not medically necessary.

This is a final decision of an administrative agency. Under MCL 550.1915, any person

aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.